



PUBLIC NOTICE

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STREAMLINED RESOLUTION OF REQUESTS RELATED TO ACTIONS BY THE UNIVERSAL SERVICE ADMINISTRATIVE COMPANY

CC Docket No. 02-6
WC Docket No. 06-122

Pursuant to our procedure for resolving requests for review, requests for waiver, and petitions for reconsideration of decisions related to actions taken by the Universal Service Administrative Company (USAC) that are consistent with precedent (collectively, Requests), the Wireline Competition Bureau (Bureau) grants, dismisses, or denies the following Requests.¹ The deadline for filing petitions for reconsideration or applications for review concerning the disposition of any of these Requests is 30 days from release of this Public Notice.²

Schools and Libraries (E-rate) CC Docket No. 02-6

Dismiss

*Failure to Comply with the Commission's Basic Filing Requirements*³

¹ See *Streamlined Process for Resolving Requests for Review of Decisions by the Universal Service Administrative Company*, CC Docket Nos. 96-45 and 02-6, WC Docket Nos. 02-60, 06-122, 08-71, 10-90, 11-42, and 14-58, Public Notice, 29 FCC Rcd 11094 (Wireline Comp. Bur. 2014). Section 54.719(c) of the Commission's rules provides that any person aggrieved by an action taken by a division of USAC may seek review from the Commission. 47 C.F.R. § 54.719(c).

² See 47 C.F.R. §§ 1.106(f), 1.115(d); see also 47 C.F.R. § 1.4(b)(2) (setting forth the method for computing the amount of time within which persons or entities must act in response to deadlines established by the Commission).

³ 47 C.F.R. § 54.721 (setting forth general filing requirements for requests for review of decisions issued by the Administrator, including the requirement that the request for review include supporting documentation); see also *Wireline Competition Bureau Reminds Parties of Requirements for Request for Review of Decisions by the Universal Service Administrative Company*, CC Docket Nos. 96-45, 02-6, WC Docket Nos. 02-60, 06-122, 10-90, 11-42, 13-184, 14-58, Public Notice, 29 FCC Rcd 13874 (Wireline Comp. Bur. 2014) (reminding parties submitting appeals to the Bureau of the general filing requirements contained in the Commission's rules which, along with a proper caption and reference to the applicable docket number, require (1) a statement setting forth the party's interest in the matter presented for review; (2) a full statement of relevant, material facts with supporting affidavits and documentation; (3) the question presented for review, with reference, where appropriate, to the relevant Commission rule, order or statutory provision; and (4) a statement of the relief sought and the relevant statutory or regulatory provision pursuant to which such relief is sought); *Universal Service Contribution Methodology; Request for Review by Alternative Phone, Inc. and Request for Waiver*, WC Docket No. 06-122, Order, 26 FCC Rcd 6079

ECCUSD #1, IL, No Application Number Given, Request for Waiver, CC Docket No. 02-6 (filed Dec. 7, 2015)

Ehrhart School, TX, Application No. 950567, CC Docket No. 02-6 (filed Dec. 15, 2015)

Dove Science Academy, OK, No Application Number Given, Request for Waiver, CC Docket No. 02-6 (filed Nov. 2, 2015)

Immaculate Conception School, NJ, No Application Number Given, Request for Waiver, CC Docket No. 02-6 (filed Nov. 19, 2015)

John Gomez, CA, No Application Number Given, Petition for Reconsideration, CC Docket No. 02-6 (filed Nov. 16, 2015)

Saint Stephen School, MD, Application No. 981139, CC Docket No. 02-6 (filed Nov. 25, 2015)

Talmud Torah Bnei Shimon Yesroel Shopron, NY, No Application Number Given, Request for Waiver, CC Docket No. 02-6 (filed Nov. 23, 2015)

Telephone Associates Inc., WI, No Application Number Given, Request for Waiver, CC Docket No. 02-6 (filed Nov. 20, 2015)

Vysehrad Independent School District, TX, Application No. 953369, CC Docket No. 02-6 (filed Nov. 13, 2015)

Granted⁴

Considering Price of Eligible and Ineligible Items as Primary Factor in Vendor Selection Process⁵

Alhambra Elementary School District #68, AZ, Application No. 943752, FRN 2573924, Request for Review and/or Waiver, CC Docket No. 02-6 (filed Jan. 5, 2015)

Eligible Entities⁶

(Wireline Comp. Bur. 2011) (dismissing without prejudice a request for review that failed to meet the requirements of section 54.721 of the Commission's rules).

⁴ We remand these applications to USAC and direct USAC to complete its review of the applications, and issue a funding commitment or a denial based on a complete review and analysis, no later than 90 calendar days from the release date of this Public Notice. In remanding these applications to USAC, we make no finding as to the ultimate eligibility of the services or the petitioners' applications. We also waive sections 54.507(d) and 54.514(a) of the Commission's rules and direct USAC to waive any procedural deadline that might be necessary to effectuate our ruling. See 47 C.F.R. § 54.507(d) (requiring non-recurring services to be implemented by September 30 following the close of the funding year); 47 C.F.R. § 54.514(a) (codifying the invoice filing deadline).

⁵ See, e.g., *Requests for Review of Decisions of the Universal Service Administrator by Coolidge Unified School District 21; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 28 FCC Rcd 16907 (Wireline Comp. Bur. 2013) (waiving sections 54.504 and 54.511 of the Commission's rules where the record demonstrates that the applicant would have selected the same vendor if it had excluded the price of ineligible items from the "cost" criterion).

⁶ See, e.g., *Requests for Review of the Decisions of the Universal Service Administrator by Bootheel Consortium et al., Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 22 FCC Rcd 8747, 8750-8751, paras. 7-8 (2007) (directing USAC to reevaluate the eligibility for E-rate support of various entities when applicants provided sufficient evidence to conclude that the relevant entities may be eligible for support).

Chabad Outreach Center, FL, Application Nos. 841276, 841394, Request for Review, CC Docket No. 02-6 (filed Mar. 4, 2013)

*Granting Additional Time to Respond to USAC's Request for Information*⁷

St. Adalbert Elementary School, WI, Application No. 1012807, Request for Review, CC Docket No. 02-6 (filed Dec. 7, 2015)

*Late-Filed FCC Form 471 Applications Filed within 14 days of the Close of the Window*⁸

Crazy Horse School, SD, Application No. 992385, Request for Waiver, CC Docket No. 02-6 (filed Apr. 7, 2014)

*Ministerial and/or Clerical Errors – FCC Form 471*⁹

Desoto Trail Regional Library, GA, Application No. 1022055, Request for Waiver, CC Docket No. 02-6 (filed Nov. 23, 2015)

Dubuque Community Schools, IA, Application No. 1022044, Request for Review, CC Docket No. 02-6 (filed Nov. 23, 2015)

Many Farms Community Schools, Inc., AZ, Application No. 1035367, Request for Waiver, CC Docket No. 02-6 (filed Dec. 3, 2015)

Muskego-Norway School District, WI, Application No. 1013217, Request for Review, CC Docket No. 02-6 (filed Nov. 24, 2015)

St. Alphonsus School, PA, Application No. 1007724, Request for Review, CC Docket No. 02-6 (filed Nov. 30, 2015)

St. Charles Elementary School, WI, Application No. 1012879, Request for Review, CC Docket No. 02-6 (filed Sept. 14, 2015)

⁷ See, e.g., *Requests for Review of the Decision of the Universal Service Administrator by Alpaugh Unified School District et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 22 FCC Rcd 6035 (2007); *Requests for Review of Decisions of the Universal Service Administrator by Ben Gamla Palm Beach et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 29 FCC Rcd 1876 (Wireline Comp. Bur. 2014) (granting requests for review of applicants that had been denied funding because they failed to respond to USAC's request for information within the USAC-specified time frame).

⁸ See, e.g., *Requests for Waiver and Review of Decisions of the Universal Service Administrator by Academy of Math and Science et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 25 FCC Rcd 9256, 9259, para. 8 (2010) (*Academy of Math and Science Order*) (finding special circumstances exist to justify granting waiver requests where, for example, petitioners filed their FCC Forms 471 within 14 days after the FCC Form 471 filing window deadline).

⁹ See, e.g., *Request for Waiver and Review of the Decisions of the Universal Service Administrator by Achieve Career Preparatory Academy et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 26 FCC Rcd 10254, 10255 (Wireline Comp. Bur. 2011) (granting relief for applicant that mischaracterized recurring charge as a non-recurring charge); *Requests for Waiver and Review of Decisions of the Universal Service Administrator by Ann Arbor Public Schools et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 25 FCC Rcd 17319, 17320, note 5 (Wireline Comp. Bur. 2010) (permitting applicants to correct clerical errors, including failing to enter an item from the source list onto an application, making a miscalculation, and entering a wrong service start or end date).

St. Rafael the Archangel School, WI, Application No. 1012721, Request for Review, CC Docket No. 02-6 (filed Nov. 24, 2015)

*Ministerial and/or Clerical Errors – Signed Contract Requirement*¹⁰

Cardinal Hayes High School, NY, Application No. 769038, Request for Review, CC Docket No. 02-6 (filed Nov. 13, 2015)

Green Dot Public Schools, CA, Application No. 937282, Request for Waiver, CC Docket No. 02-6 (filed Nov. 13, 2015)¹¹

Denied

*Failure to Consider Price as the Primary Factor in Vendor Selection Process*¹²

¹⁰ See, e.g., *Requests for Review and/or Waiver of the Decisions of the Universal Service Administrator by Amphitheater Unified School District 10 et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 28 FCC Rcd 7536, 7536-37, para. 2 (Wireline Comp. Bur. 2013) (granting waivers of the signed contract requirement in instances where applicants demonstrated they had legally binding agreements in place prior to filing their FCC Form 471 applications); *Requests for Waiver of the Decision of the Universal Service Administrator by Adams County School District 14 et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 22 FCC Rcd 6019, 6022-23, paras. 8-9 (2007) (granting a waiver of the Commission's contract rules for applicants with some sort of agreement in place but signing the actual contract with their service providers shortly after submitting their FCC Form 471).

¹¹ See, e.g., *Request for Waiver of the Decision of the Universal Service Administrator by Barberton City School District et al.; School and Libraries Universal Serv. Support Mechanism*, 23 FCC Rcd 15526, 15529-30, paras. 6-7 (Wireline Comp. Bur. 2008) (granting relief where applicants' clerical errors led to late-signed contracts, but they all had some form of an agreement in place prior to filing their FCC Forms 471).

Alhambra Elementary School District #68, AZ, Application No. 943752, FRN 2573936, Request for Review and/or Waiver, CC Docket No. 02-6 (filed Jan. 5, 2015)¹³

*Seeking E-rate Support for Services Not Covered by the Applicant's Competitive Bidding Process*¹⁴

Breckenridge R-I School, MO, Application No. 991952, Request for Waiver, CC Docket No. 02-6 (filed Feb. 25, 2015)

*Late-Filed FCC Form 471 Applications*¹⁵

Fairbanks North Star Borough Public Libraries, AK, did not file application, CC Docket No. 02-6 (filed Nov. 17, 2015)

Kaw City Public Library, OK, Application No. 995388, Request for Waiver, CC Docket No. 02-6 (filed June 8, 2015)

Sierra Foothill Charter School, CA, Application No. 1052671, Request for Waiver, CC Docket No. 02-6 (filed May 19, 2015)

¹² See, e.g., *Request for Review of a Decision of the Universal Service Administrator by Fall River Public School District; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 28 FCC Rcd 7427, 7428-29, paras. 4-5 (Wireline Comp. Bur. 2013) (denying appeal where applicant failed to consider price as primary factor in its vendor selection process and where it was not clear from the record that applicant selected the lowest-cost provider).

¹³ This appeal is also denied on three additional grounds in violation of the Commission's competitive bidding rules. First, the petitioner failed to provide notice to potential bidders of its use of a multi-tiered bid evaluation approach. See *Requests for Review of a Decision of the Universal Service Administrator by Baltimore City School District and Cobb County School District; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 26 FCC Rcd 11193, 11199, para. 12 (Wireline Comp. Bur. 2011) ("Consistent with state and local procurement requirements, we expect that any applicant using a multi-tiered process would provide notice – in either its FCC Form 470 or its [Request for Proposal] RFP – to all potential bidders as to the specific criteria to be evaluated in each tier, how those criteria will be scored, which criteria will be used as disqualification criteria, and the circumstances under which bidders will be disqualified from further consideration."). Second, the petitioner failed to describe with sufficient detail the services it sought in its FCC Form 470, and it indicated that no RFP was available, when there was an RFP. See, e.g., *Request for Review of a Decision of the Universal Service Administrator by Washington Unified School District; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 28 FCC Rcd 13746, 13748, paras. 3-5 (Wireline Comp. Bur. 2013) (explaining that failure by an applicant to describe with specificity the services it is seeking to purchase on its FCC Form 470 or to indicate on the FCC Form 470 that it has a RFP available providing detail about the requested services violates the E-rate program's competitive bidding rules). Third, the petitioner failed to produce documentation regarding its vendor selection process. See, e.g., *Requests for Review of Decisions of the Universal Service Administrator by Central Islip Free Union School District et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 26 FCC Rcd 8630, 8635-36, paras. 11-12 (Wireline Comp. Bur. 2011) (denying appeal where the applicant failed to produce documentation regarding its vendor selection process and, thus, could not demonstrate compliance with the E-rate program's competitive bidding rules).

¹⁴ See, e.g., *Request for Review of a Decision of the Universal Service Administrator by Albert Lea Area Schools et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 24 FCC Rcd 4533, 4541-42, para. 14-15 (Wireline Comp. Bur. 2009) (finding that petitioners violated the Commission's competitive bidding rules by not including the type of service on the FCC Form 470 the applicant requested on its FCC Form 471).

¹⁵ See, e.g., *Academy of Math and Science Order* 25 FCC Rcd at 9259, para. 8 (denying waivers of the FCC Form 471 filing window deadline where petitioners failed to present special circumstances justifying waiver of our rules).

*Untimely Filed Request for Review*¹⁶

Buffalo Promise Neighborhood Early Childhood Center, NY, Application No. 924945, Request for Review, CC Docket No. 02-6 (filed Dec. 8, 2015)

Independent Computer Maintenance, LLC (Kearny Christian Academy), NJ, Application No. 307730, Request for Review, CC Docket No. 02-6 (filed Nov. 17, 2015)

La Salle Catholic School, Holy Cross, IA, Application No. 895794, Request for Waiver, CC Docket No. 02-6 (filed Jul. 30, 2015)

Little Tigers Daycare/Pre-School, FL, Application No. 963068, Request for Review, WC Docket No. 13-184 (filed Apr. 9, 2015)

Palestine Public Library District, IL, Application No. 894255, Request for Review, CC Docket No. 02-6 (filed Nov. 23, 2015)

Sacred Heart School, NY, Application Nos. 988062 and 988234, Request for Review, CC Docket No. 02-6 (filed Nov. 25, 2015)

St. Paul School, NY, Application No. 1014550, Request for Review, CC Docket No. 02-6 (filed Dec. 7, 2015)

*Ministerial and/or Clerical Errors – FCC Form 471*¹⁷

Central Bucks School District, PA, Application No. 1029584, Request for Waiver, CC Docket No. 02-6 (filed Aug. 12, 2015, supplemented Nov. 17, 2015)

*Unjustified Service Implementation Delay*¹⁸

¹⁶ See, e.g., *Requests for Review of Decisions of the Universal Service Administrator by Agra Public Schools I-134 et al.*; *Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 25 FCC Rcd 5684 (Wireline Comp. Bur. 2010); *Requests for Waiver or Review of Decisions of the Universal Service Administrator by Bound Brook School District et al.*; *Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 29 FCC Rcd 5823 (Wireline Comp. Bur. 2014) (denying appeals on the grounds that the petitioners failed to submit their appeals either to the Commission or to USAC within 60 days, as required by the Commission's rules, and did not show special circumstances necessary for the Commission to waive the deadline).

¹⁷ See, e.g., *Requests for Waiver and Review of Decisions of the Universal Service Administrator by Assabet Valley Regional Vocational District*; *Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 27 FCC Rcd 1924, 1925, para. 1 (Wireline Comp. Bur. 2012) (finding some petitioners had not demonstrated that good cause existed to justify waivers to permit changes to applicants' E-rate applications).

¹⁸ See, e.g., *Request for Review/Waiver of the Decision of the Universal Service Administrator by Accelerated Charter et al.*; *Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 29 FCC Rcd 13652, 13653, para. 3 (Wireline Comp. Bur. 2014) (denying late-filed extensions of the deadline for service implementation when applicants failed to demonstrate they were unable to complete implementation on time for reasons beyond the service providers' control and failed to make significant efforts to secure the necessary extensions in a timely manner).

A3 Communications (Brunswick County Schools), NC, Application No. 827547, Request for Waiver, CC Docket No. 02-6 (filed Oct. 13, 2015)

*Violation of the Competitive Bidding 28-Day Rule*¹⁹

Daytop Preparatory Academy – New Jersey, NJ, Application Nos. 799605, 862622, 896524, Request for Review, CC Docket No. 02-6 (filed Apr. 6, 2015)

Rochester Academy Charter School, NY, Application No. 984730, Request for Review, CC Docket No. 02-6 (filed Jan. 20, 2015)

Contribution Methodology
WC Docket No. 06-122

Dismissed Without Prejudice

*FCC Form 499-Q Revision Deadline Waiver Request*²⁰

Protocall, LLC, Request for Review and/or Waiver, WC Docket 06-122 (filed Nov. 9, 2015)

For additional information concerning this Public Notice, please contact Sibb McNally in the Telecommunications Access Policy Division, Wireline Competition Bureau, at (202) 418-7400.

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¹⁹ See, e.g., *Application for Review of a Decision of the Universal Service Administrator by Challis Joint School District #181; School and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 26 FCC Rcd. 3812, 3814, para. 5 (Wireline Comp. Bur. 2011) (denying request for review where applicant selected a service provider for E-rate services prior to submitting its FCC Form 470 when the rule requires the applicant to wait at least 28 days after such posting).

²⁰ *Universal Service Contribution Methodology, Request for Review of Decision of Universal Service Administrator and Request for Waiver by CML Communications LLC*, WC Docket No. 06-122, Order, 26 FCC Rcd 335 (Wireline Comp. Bur. 2011) (finding request procedurally defective for failure to comply with 47 C.F.R. § 54.721); *Universal Service Contribution Methodology, Request for Review of Decision of Universal Service Administrator and Request for Waiver by Alternative Phone, Inc.*, WC Docket No. 06-122, Order, 26 FCC Rcd 6079 (Wireline Comp. Bur. 2011) (finding request procedurally defective for failure to comply with 47 C.F.R. § 54.721); *Universal Service Contribution Methodology, Request for Review of Decision of Universal Service Administrator by Dorial Telecom LLC*, WC Docket No. 06-122, Order, 26 FCC Rcd 3799 (Wireline Comp. Bur. 2011) (finding request procedurally defective for failure to comply with 47 C.F.R. § 54.721).